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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2011-171*

12 **BEATRICE ANNA FOLTZ aka**
13 **BEATRICE ANA MILLHOUSE**
14 **741 Calle Arroyo**
Thousand Oaks, CA 91360

A C C U S A T I O N

15 **Registered Nurse License No. 294526**

16 Respondent.

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18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 2. On or about August 31, 1978, the Board of Registered Nursing issued Registered
25 Nurse License Number 294526 to Beatrice Anna Foltz aka Beatrice Ana Millhouse (Respondent).
26 The Registered Nurse License was in full force and effect at all times relevant to the charges
27 brought herein and will expire on April 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions. . . ."

7. Section 2725 of the Code states:

"(a) In amending this section at the 1973-74 session, the Legislature recognizes that nursing is a dynamic field, the practice of which is continually evolving to include more sophisticated patient care activities. It is the intent of the Legislature in amending this section at the 1973-74 session to provide clear legal authority for functions and procedures that have common acceptance and usage. It is the legislative intent also to recognize the existence of overlapping functions between physicians and registered nurses and to permit additional sharing of functions within organized health care systems that provide for collaboration between physicians and registered nurses. These organized health care systems include, but are not

1 limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of
2 Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and
3 public or community health services.

4 (b) The practice of nursing within the meaning of this chapter [the Nursing Practice Act]
5 means those functions, including basic health care, that help people cope with difficulties in daily
6 living that are associated with their actual or potential health or illness problems or the treatment
7 thereof, and that require a substantial amount of scientific knowledge or technical skill, including
8 all of the following:

9 (1) Direct and indirect patient care services that ensure the safety, comfort, personal
10 hygiene, and protection of patients; and the performance of disease prevention and restorative
11 measures.

12 (2) Direct and indirect patient care services, including, but not limited to, the
13 administration of medications and therapeutic agents, necessary to implement a treatment, disease
14 prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician,
15 dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety
16 Code.

17 . . .

18 (4) Observation of signs and symptoms of illness, reactions to treatment, general behavior,
19 or general physical condition, and (A) determination of whether the signs, symptoms, reactions,
20 behavior, or general appearance exhibit abnormal characteristics, and (B) implementation, based
21 on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or
22 changes in treatment regimen in accordance with standardized procedures, or the initiation of
23 emergency procedures. . . .

24 8. California Code of Regulations, title 16, section 1442, states:

25 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from
26 the standard of care which, under similar circumstances, would have ordinarily been exercised by
27 a competent registered nurse. Such an extreme departure means the repeated failure to provide
28 nursing care as required or failure to provide care or to exercise ordinary precaution in a single

1 situation which the nurse knew, or should have known, could have jeopardized the client's health
2 or life."

3 9. California Code of Regulations, title 16, section 1443, states:

4 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
5 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
6 exercised by a competent registered nurse as described in Section 1443.5."

7 10. California Code of Regulations, title 16, section 1443.5 states:

8 "A registered nurse shall be considered to be competent when he/she consistently
9 demonstrates the ability to transfer scientific knowledge from social, biological and physical
10 sciences in applying the nursing process, as follows:

11 (1) Formulates a nursing diagnosis through observation of the client's physical condition
12 and behavior, and through interpretation of information obtained from the client and others,
13 including the health team.

14 (2) Formulates a care plan, in collaboration with the client, which ensures that direct and
15 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
16 for disease prevention and restorative measures.

17 (3) Performs skills essential to the kind of nursing action to be taken, explains the health
18 treatment to the client and family and teaches the client and family how to care for the client's
19 health needs.

20 (4) Delegates tasks to subordinates based on the legal scopes of practice of the
21 subordinates and on the preparation and capability needed in the tasks to be delegated, and
22 effectively supervises nursing care being given by subordinates.

23 (5) Evaluates the effectiveness of the care plan through observation of the client's physical
24 condition and behavior, signs and symptoms of illness, and reactions to treatment and through
25 communication with the client and health team members, and modifies the plan as needed.

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1 (6) Acts as the client's advocate, as circumstances require, by initiating action to improve
2 health care or to change decisions or activities which are against the interests or wishes of the
3 client, and by giving the client the opportunity to make informed decisions about health care
4 before it is provided."

5 COST RECOVERY

6 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licensee found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 STATEMENT OF FACTS

11 12. On December 6, 2006, 29 year old patient Stacey M.¹ was admitted to Los Robles
12 Hospital and Medical Center, located at 215 West Janss Road in Thousand Oaks, California, for a
13 C-1 laminectomy and micro dissection. The surgery was completed without complication.

14 13. On the morning of December 8, 2006, Respondent was working as a registered nurse
15 in the Intensive Care Unit (ICU) at Los Robles Hospital. Respondent was on duty on December
16 8th on the 7:00 a.m. to 7:00 p.m. shift. Respondent was assigned on that date to care for patient
17 Stacey M.

18 14. The patient was on a morphine PCA pump with a basal rate of 2 mg an hour, PCA
19 dose of 1 mg per hour with a delay of 6 minutes and hourly limit of 12 mg an hour. The patient
20 had also received Diazepam and Percocet. The use of both narcotics for pain and Diazepam for
21 anxiety put the patient at an increased risk for sedation that could cause a respiratory compromise.

22 15. At approximately 7:15 a.m. on December 8, 2006, Respondent did an initial patient
23 assessment of Stacey M. The patient was drowsy and arousable to name and gentle touch.
24 Stacey M.'s vital signs, including her blood pressure, respirations, oxygen saturation and pulse,
25 were within normal limits. Respondent, however, failed to check the volume of the patient's
26 bedside alarm settings, which is the standard of practice in the ICU.

27 ¹ In order to protect the patient's privacy, she will be referred to in the Accusation, by only
28 her first name and first initial of her last name.

16. At about 7:26 a.m., the patient had a sudden drop in oxygen saturation from 95% at 7:21 a.m. to 55% at 7:26 a.m. The oxygen saturation alarm was not audible, however, as the volume was turned down to 15, *i.e.*, too low to hear. The patient went bradycardic at 7:43 a.m. and CPR was initiated. The patient was intubated and supported hemodynamically until she was declared brain dead on December 10, 2006; the patient was removed from life support and died on or about December 12, 2006.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Incompetence, Negligence and/or Gross Negligence)

17. Respondent is subject to disciplinary action under section 2761, subdivision (a)(1), on the grounds of unprofessional conduct in that Respondent committed acts of incompetence and/or gross negligence, with the meaning of California code of Regulations, title 16, sections 1442, 1443, and 1443.5, involving the care and treatment of patient Stacey M. The circumstances are described more fully in paragraphs 12 – 16, above, and as follows:

a. Respondent failed to check both the alarm settings and volume settings of the patient's bedside alarms, in deviation for the standards of practice of the nursing profession.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 294526, issued to Beatrice Anna Foltz aka Beatrice Ana Millhouse;

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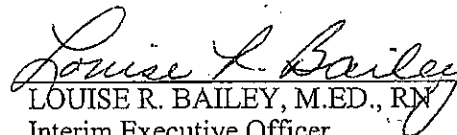
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1 2. Ordering Beatrice Anna Foltz to pay the Board of Registered Nursing the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: _____
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8/31/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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